

Media Captioning Services
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February 7, 2014

Ms. Marlene H Dortch
Secretary
Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Re: Docket no 05-231, Closed Captioning

Dear Ms. Dortch:

On February 5, 2014, Media Captioning Services received copies of Ex Parte documents filed independently by NCTA, NAB, and by NCI. Eliot Greenwald asked MCS in our Ex Parte conversation with the FCC for our comments on the Best Practices submission by NCI. We will present our comments on the above-noted submissions as follows:

1. MCS is pleased by NCTA's efforts to identify in their Best Practices documents topics such as Key Terms, Operational Best Practices, Monitoring and Remedial Best Practices, Certification Procedures for Video Programmers, Best Practices for Video Programming Distributors, Broadcast Station Testing of Equipment, Resolution of Closed Captioning Complaints, and Implementation and Review of Best Practices. They are a very useful set of guidelines to be followed by members of the Association. The NCTA Best Practices document suggests agreements with caption services need to take into account performance requirements cited in the NCI Best Practices document. While we agree with some of the "Best Practices" in the NCI document as discussed below, we do not agree that the NCTA should suggest to the FCC or its members that the Captioning Vendor Best Practices Document submitted by NCI should be the sole criteria governing the performance requirements of captioning vendors, or create a "safe harbor" for video programmers if they include this in their RFP or contract requirements with other captioning vendors. In implementing agreements with caption vendors, the NCTA should encourage and support their members to consider various quality control systems and practices which meet or exceed FCC quality standards to be implemented in this Report, not solely those referenced in the document NCI and three other companies submitted.
2. The NAB Ex Parte document dated January 23, 2014 sent to us by the FCC for our comment discussed safe harbor in relation to Electronic Newsroom Techniques Best Practices. We recognize that in smaller markets ENT is the only way news can be captioned cost-effectively, and we support industry efforts to improve the use of this technology. We do not support the concept of "safe harbor" based on adoption of a set of best practices. Also, there are stations serving populations in DMA's 25 to 50 in size in areas impacted by severe weather conditions.

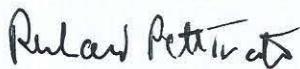
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The availability of real-time writers will be improved if stations in the 25 to 50 DMA's severely impacted by weather, and which provide live coverage of emergency/weather events if stations in such markets had in place a certain percentage of their newscasts real-timed. With existing contracts in place (i.e. for some of their newscasts) stations would have a greater likelihood of being able to call on real-time captioners already serving a local news market with trained, experienced real-time captioners familiar with local terminology. Quality real-time captioning cannot be ordered like coffee from a vending machine and, therefore, if stations in local markets affected by severe weather/emergency weather condition want to truly serve their Deaf and hard of hearing viewers, they will make efforts to provide real-time captioning for a portion of their newscasts, along with ENT if the technology meets FCC Quality requirements under this forthcoming Rulemaking.

3. The Commission has asked for our comments on the four- page" Captioning Vendor Best Practices" Ex Parte Document developed by NCI and three other captioning companies. and submitted January 10, 2014 to the FCC. The quality concepts discussed on page 1 were originally discussed at great length by a group of industry participants known as AMIC (Accessible Media Industry Coalition) which was active from 2000 through 2004. This group was comprised of over 20 participants in the real time and offline captioning industry, and was initially created at the urging of the U.S Department of Education. MCS was one of the Charter members of AMIC (as were the 4 companies which generated this Ex Parte document) filed by NCI. The group conducted frequent and exhaustive meetings on the issue of caption quality. We agree completely with the metrics presented for defining real-time captioning on page 1 and page 3 of this document for offline. We do not agree with some of the "best practices" which are presented by the 4 companies in this Ex Parte document, and which pertain to specific methodologies or techniques that need to be followed as a "best practice." For example, what "infrastructure" is to be expected from a caption company in order to meet FCC quality standards? Is it our role to inform our clients on the appropriate use of real-time captioning? Is there an expectation that we, as caption vendors, can determine for our clients what type of captioning, or under what circumstances real-time captioning is appropriate? Also, page 4 of the document includes as a "best practice" the following statement " encourage the use of offline captioning for live and near- live programming that originally aired on broadcast television and re-feeds at a later time." We would be surprised if all members of the NCRA and NCTA supported this as a best practice, given the operational and cost factors that would result from this "best practice."

In summary, we are troubled by the perception in these comments, or in any forthcoming FCC Rulemaking, that these "best practices" – specifically the performance metrics- are exclusive to these four companies. They are not. We are troubled by the potential level of collaboration/discussion on this "Best Practices" document by these four companies, and developed within 120 days or less of Rulemaking on a Matter that has been under consideration by the FCC for 10 years, and which encourages video programmers, as a best practice, to use off-line captioning- a business in which these four companies have a substantial market share and dominance. We are troubled by the fact the Ex Parte document submitted by NCI and three other companies was not filed with the FCC using the ECFS filing system, which would have enabled disclosure of this document in a more timely way to other parties in the captioning industry to comment upon.

Richard Pettinato, Exec VP



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